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April 30, 2021

U.S. District Judge William M. Conley
United States District Court
Western District of Wisconsin
120 N Henry St
Madison, WI 53703

Re: 3:21-cv-00278-wmc
Huber v. Kraft Heinz Foods Company

Dear District Judge Conley:

This office represents the Plaintiff. This action was filed on April 25, 2021. ECF No. 1. The complaint has not been served on defendant. Pursuant to Fed. R. Civ. P. 20 and 21, Plaintiff requests that the Court permit the joinder of Christopher Lemke and dismiss plaintiff Huber.

When considering a request to add or remove a party, courts have long considered the interplay of Rules 15 and 21. *Rollins Burdick Hunter of Wisconsin, Inc. v. Lemberger*, 105 F.R.D. 631, 636–38 (E.D. Wis. 1985) (“Many of the court decisions to date reflect the view...that an amendment changing parties requires leave of court”).

Rule 21 establishes that “[p]arties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just.” *Rollins Burdick Hunter*, 105 F.R.D. at 636; *see State Auto Ins. Companies v. Whirlpool Corp.*, 62 F. Supp. 3d 857, 868 (W.D. Wis. 2014) *quoting* Rule 21 (“On motion or on its own, the court may at any time, on just terms, add or drop a party.”).

Should the Court consider the request under Rule 15, the Court should grant leave. *Foman v. Davis*, 371 U.S. 178, 182 (1962) (listing factors to be considered in allowing amendment). Since the complaint has not been served nor a responsive pleading filed, amendment is sought pursuant to Rule 15(a)(2) (“Other Amendments.”) (“The court should freely give leave when justice so requires.”).

There has been no undue delay, as this case was filed less than a week ago. There is no bad faith since no other parties are affected by this request. There is no prejudice to defendant because service has not been completed, and even if it was, the replacement of a named plaintiff in a proposed class action does not alter the underlying facts. Proposed plaintiff Lemke is a citizen of Wisconsin, purchased the same Bagel Bites Mozzarella Cheese and Tomato Sauce product, in Wisconsin, within the same statutes of limitations, and relied on the same representations as plaintiff Huber.

Should the Court approve this request, the undersigned will promptly file an amended complaint which replaces Plaintiff Huber with Christopher Lemke and file a voluntary dismissal of the claims of Plaintiff Huber. Thank you.

Respectfully submitted,

/s/Spencer Sheehan

Certificate of Service

I certify that on April 30, 2021, I served and/or transmitted the foregoing by the method below to the persons or entities indicated, at their last known address of record (blank where not applicable).

	CM/ECF	First-Class Mail	Email	Fax
Defendant's Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plaintiff's Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Courtesy Copy to Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

/s/ Spencer Sheehan